

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Joan H. Lefkow	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	03 C 7095	DATE	12/11/2003
CASE TITLE	Birnbaum vs. Midway Games, Inc., et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> Local Rule 41.1 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Joint Stipulation and Order of Lead Plaintiff Applicants For Consolidation of Actions, To Appoint Lead Plaintiffs and Approve Their Selections of Lead Counsel and Liaison Counsel. Case Nos. 03 C 6821, 03 C 7008, 03 C 7095 and 03 C 7632 are hereby consolidated for all purposes. Every pleading in the consolidated action shall have the following caption: In Re Midway Games, Inc. Securities Litigation, 03 C 6821. William Lindesmith, Lance Coren, Paul Stanley Cobb, Jr., Maurice W. Mihelich are appointed as lead plaintiffs, and Schiffrin & Barroway LLP and Cauley Geller Bowman & Rudman LLP are approved as co-lead counsel. The law firm of Miller Faucher and Cafferty LLP is approved as liaison counsel.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.	<div style="text-align: center;"> <p>U.S. DISTRICT COURT</p> <p>CLERK</p> <p>03 DEC 11 AM 5:59</p> <p>FILED-ED 10</p> </div>	6	<div style="text-align: center;"> <p>Document Number</p> <p>2</p> </div>
<input type="checkbox"/>	No notices required.		number of notices	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		DEC 12 2003	
<input type="checkbox"/>	Notified counsel by telephone.		docketing deputy initials	
<input type="checkbox"/>	Docketing to mail notices.		12/11/2003	
<input type="checkbox"/>	Mail AO 450 form.		date mailed notice	
<input type="checkbox"/>	Copy to judge/magistrate judge.		MD	
MD	courtroom deputy's initials	Date/time received in central Clerk's Office	mailing deputy initials	

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

DEC 04 2003

JUDGE JOAN H. LEFKOW
UNITED STATES DISTRICT COURT

ALLEN EHRLICH, individually and on)
behalf of all others similarly situated,)

Plaintiff,)

v.)

No. 03-C-6821

MIDWAY GAMES, INC., NEIL D.)
NICASTRO, THOMAS E. POWELL, and)
KENNETH J. FEDESNA,)

Defendants.)

Judge Joan Humphrey Lefkow

DENISE R. MCVEY, individually and on)
behalf of all others similarly situated,)

Plaintiff,)

v.)

No. 03-C-7008

MIDWAY GAMES, INC., NEIL D.)
NICASTRO, THOMAS E. POWELL, and)
KENNETH J. FEDESNA,)

Defendants.)

Judge Joan Humphrey Lefkow

[Captions continued on next page]

PROPOSED
DEC 12 2003

**JOINT STIPULATION AND ~~PROPOSED~~ ORDER OF LEAD PLAINTIFF
APPLICANTS FOR CONSOLIDATION OF ACTIONS, TO APPOINT LEAD
PLAINTIFFS AND APPROVE THEIR SELECTION OF
LEAD COUNSEL AND LIAISON COUNSEL**



EZRA BIRNBAUM, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

MIDWAY GAMES, INC., NEIL D.
NICASTRO, THOMAS E. POWELL,
KENNETH J. FEDESNA, UBS
WARBURG, LLC, GERARD KLAUER
MATTISON & CO., INC., and
JEFFERIES & COMPANY, INC.,

Defendants.

No. 03-C-7095

Judge Joan Humphrey Lefkow

BENNET CIN and CIN & WAGNER
PROFIT SHARING PLAN, individually
and on behalf of all others similarly
situated,

Plaintiffs,

v.

MIDWAY GAMES, INC., NEIL D.
NICASTRO, THOMAS E. POWELL, and
KENNETH J. FEDESNA,

Defendants.

No. 03-C-7632

WHEREAS, there are currently two competing motions for appointment of lead plaintiff and their selection of lead counsel before the Court;

WHEREAS, On September 26, 2003, the first captioned class action complaint (the "Ehrlich Action") alleging violations of federal securities laws was filed with this Court in connection with purchases of Midway Games, Inc. securities. Three related complaints were filed shortly thereafter;

WHEREAS, pursuant to Section 21D(a)(3)(A) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §78u-4(a)(3)(A), the plaintiff in the Ehrlich Action caused notice to be published on the *PR Newswire* on or about September 26, 2003 (the “Notice”), which informed class members of their right to seek appointment as lead plaintiff;

WHEREAS, on November 25, 2003 movants William Lindesmith, Lance Coren, Paul Stanley Cobb, Jr., and Maurice W. Mihelich, pursuant to Section 21D of the Private Securities Litigation Reform Act of 1995 (“PSLRA”), timely filed a motion to consolidate the above-captioned actions, to appoint themselves as lead plaintiff and to approve their choice of counsel, Schiffrin & Barroway, LLP, as lead counsel;

WHEREAS, on November 25, 2003, movants Leonard & Carol E. Willig, as trustees for the Willig Living Trust and as Joint Tenants with Rights of Survivorship, (collectively referred to herein as the “Willigs”) pursuant to Section 21D of the PSLRA, timely filed a motion to consolidate the above-captioned actions, to appoint itself as lead plaintiff and to approve its choice of counsel, Cauley Geller Bowman & Rudman, LLP, as lead counsel;

WHEREAS, William Lindesmith, Lance Coren, Paul Stanley Cobb, Jr., Maurice W. Mihelich, and the Willigs have demonstrated that they have suffered substantial financial losses and that they understand the importance of supervising and monitoring the case, and have determined that it would be more efficient and more beneficial to the class to propose a consensual resolution than proceed further with competing lead plaintiff motions;

WHEREAS, William Lindesmith, Lance Coren, Paul Stanley Cobb, Jr., Maurice W. Mihelich, and the Willigs have demonstrated that they otherwise satisfy the requirements of Section 21D(a)(3)(B)(iii)(I) of the Exchange Act, 15 U.S.C. §78u-4(a)(3)(B)(iii)(I); and

WHEREAS, no other class member has applied to be lead plaintiff in this action.

IT IS HEREBY STIPULATED AND AGREED, by the parties, through their undersigned counsel, as follows:

1. The above-captioned actions are consolidated for all purposes (the "Consolidated Action"). This order (the "Order") shall apply to the Consolidated Action and to each case that relates to the same subject matter that is subsequently filed in this Court or is transferred to this Court and is consolidated with the Consolidated Action.

2. Every pleading filed in the Consolidated Action shall have the following caption:

IN RE MIDWAY GAMES, INC.	:	
SECURITIES LITIGATION	:	No.: 03 C 6821
	:	

3. Each new case that arises out of the subject matter of the Consolidated Action which is filed in this Court or transferred to this Court, shall be consolidated with the Consolidated Action and this Order shall apply thereto, unless a party objects to consolidation, as provided for herein, or any provision of this Order, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party, by filing an application for relief and this Court deems it appropriate to grant such application. Nothing in the foregoing shall be construed as a waiver of the defendants' right to object to consolidation of any subsequently-filed or transferred related action.

4. Class members William Lindesmith, Lance Coren, Paul Stanley Cobb, Jr., Maurice W. Mihelich, and the Willigs are hereby appointed Lead Plaintiffs pursuant to §21D(a)(3)(B) of the Securities Exchange Act, 15 U.S.C. §78u-4(a)(3)(B);

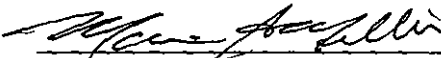
5. William Lindesmith, Lance Coren, Paul Stanley Cobb, Jr., Maurice W. Mihelich, and

the Willigs' selection of Schiffrin & Barroway, LLP and Cauley Geller Bowman & Rudman, LLP is hereby approved as Co-Lead Counsel pursuant to §21D(a)(3)(B)(v) of the Securities Exchange Act, 15 U.S.C. §78u-4(a)(3)(B)(v); and

6. The law firm of Miller Faucher and Cafferty LLP shall be approved as Liaison Counsel;

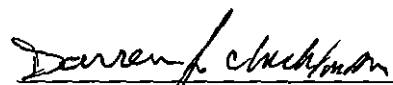
Dated December 4, 2003

Lead Plaintiff Movants

By: 
Marvin A. Miller
Jennifer W. Sprengel
Matthew E. Van Tine
MILLER FAUCHER AND CAFFERTY LLP
30 North LaSalle Street, Suite 3200
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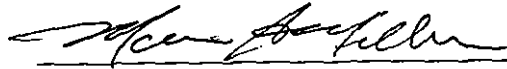
Proposed Liaison Counsel

Dated December 4, 2003

By: 
Andrew L. Barroway, Esq.
Stuart L. Berman, Esq.
Darren J. Check, Esq.
SCHIFFRIN & BARROWAY, LLP
Three Bala Plaza East, Suite 400
Bala Cynwyd, PA 19004
Telephone: (610) 667-7706
Facsimile: (610) 667-7056

Dated December 4, 2003

By:



Samuel H. Rudman, Esq.

David A. Rosenfeld, Esq.

**CAULEY GELLER BOWMAN
& RUDMAN, LLP**

200 Broadhollow, Suite 406

Melville, NY 11747

Telephone: (631) 367-7100

Proposed Co-Lead Counsel

SO ORDERED.


UNITED STATES DISTRICT JUDGE

DEC 11 2003